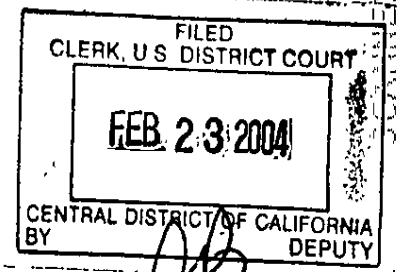


RONALD L. JOHNSTON (State Bar No. 57418)
 SEAN MORRIS (State Bar No. 200368)
 ARNOLD & PORTER
 1900 Avenue of the Stars, 17th Floor
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JEFFREY N. MAUSNER (State Bar No. 122385)
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 BERMAN, MAUSNER & RESSER
 11601 Wilshire Boulevard, Suite 600
 Los Angeles, California 90025-1742
 Telephone: (310) 473-3333
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Priority _____
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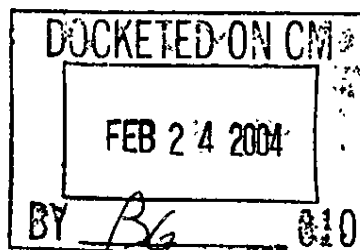
DANIEL J. COOPER (State Bar No. 198460)
 General Counsel for PERFECT 10, INC

RANDALL B. LEWIS (State Bar No. 210444)
 Associate General Counsel for PERFECT 10, INC
 Attorneys for Plaintiff PERFECT 10, INC.

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

PERFECT 10, INC.,
 Plaintiff,
 vs.
 CCBILL, LLC at al.,
 Defendants.

Case No.: 02-7624 LGB (SHx)
**STIPULATION AND
 [PROPOSED] PROTECTIVE
 ORDER**



151

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 CLERK OF COURT
 CENTRAL DISTRICT OF CALIFORNIA
 BY

1 WHEREAS, plaintiff Perfect 10, Inc. ("Plaintiff"), defendants CCBill, LLC
2 ("CCBill"), Internet Billing Company ("iBill"), NetPass Systems, Inc.
3 ("Freenetpass"), Internet Key, Inc. ("SexKey"), Network Authentication Systems
4 Corporation ("AdultKey"), IMA Enterprises, Inc. ("Massivepass"), Cavecreek
5 Wholesale Internet Exchange ("CWIE"), and Clarence Coogan, (collectively, "the
6 parties") believe that certain information that is or may be sought by discovery
7 requests or subpoenas in this action or otherwise produced constitutes trade secrets or
8 other confidential research, development, financial or commercial information within
9 the meaning of Fed. R. Civ. P. 26(c); and
10

11 WHEREAS, the parties believe that it would facilitate discovery to produce
12 such information under a protective order pursuant to Fed R. Civ. P. 26(c);

13 Therefore, IT IS HEREBY STIPULATED that:

14 1. As used herein, "Confidential Information" refers to information that a
15 party or non-party witness claims to be its trade secret or confidential research, or
16 development, financial, or commercial information, including but not limited to
17 information within the meaning of Fed. R. Civ. P. 26(c). In determining the scope of
18 information that a party may designate as its Confidential Information, each party
19 acknowledges the importance of client access to all information material to client
20 decision-making in the prosecution or defense of litigation, and therefore agrees that
21 designations of information as Confidential Information and responses to requests to
22 permit further disclosure of Confidential Information shall be made in good faith and
23 (1) not to impose burden or delay on an opposing party, or (2) not for tactical or other
24 advantage in litigation.

25 Information that may be designated under this Protective Order as Confidential
26 Information shall include:

- 27 a. information voluntarily furnished or set forth in response to Fed. R. Civ.
28 P. 26(a) disclosures or discovery requests made under Fed. R. Civ. P. 31,

SCANNED

1 33, 34, or 36 provided that, prior to disclosure to the receiving party, the
2 information or responses are either plainly marked or otherwise
3 identified by the producing party on at least the caption page with a
4 legend bearing the word "CONFIDENTIAL," or notice in writing is
5 given by the producing party identifying, by Bates number, the pages
6 that are designated "CONFIDENTIAL";

7 b. information set forth in documents made available for inspection by the
8 producing party voluntarily or under Fed. R. Civ. P. 33(d) or 34 and
9 which are identified at the time of inspection as comprising Confidential
10 Information;

11 c. information set forth in any copies of documents produced to the
12 discovering party voluntarily or under Fed. R. Civ. P. 33(d) or 34,
13 provided that, prior to delivery of the copies to the receiving party, the
14 copies are either marked by the producing party (preferably at the lower
15 center of each page), with a legend containing the word
16 "CONFIDENTIAL" and an identifying document control number
17 prefixed with one or more letters identifying the producing party, or
18 notice in writing is given by the producing party identifying, by Bates
19 number, the pages that are designated "CONFIDENTIAL."

20 d. information revealed by inspection of things or premises voluntarily or
21 under Fed. R. Civ. P. 34, provided that, prior to the inspection, the party
22 permitting inspection states in writing that its Confidential Information
23 will be disclosed by the inspection and specifies in writing those parts of
24 the things or those areas of the premises in which its Confidential
25 Information will be revealed;

26 e. information revealed during depositions upon oral examination under
27 Fed. R. Civ. P. 30 or pursuant to subpoena under Fed. R. Civ. P. 45,
28 except that the information revealed during any particular deposition

1 shall cease to be Confidential Information ten (10) days after the
2 deposition transcript becomes available, unless before the ten (10) day
3 period has expired, the witness, his employer, or his counsel designates
4 in writing or on the record that Confidential Information of the witness
5 or his employer is set forth in the transcript and identifies the portions of
6 the transcript that set forth that Confidential Information. In the case of
7 non-party witnesses, either a party or the non-party witness may
8 designate information revealed as its Confidential Information within ten
9 (10) days after the deposition transcript becomes available;

10 f. any summary, digest, analysis or comment on any information identified
11 in categories a - e.

12 2. Confidential Information shall be disclosed only to (a) the Court under
13 seal, (b) the parties' respective outside counsel (including support staff as reasonably
14 necessary), (c) outside stenographic court reporters and language translators
15 (including support staff as reasonably necessary), and (d) the additional individuals
16 listed in items (i) through (viii) below, provided each has signed an Undertaking in
17 the form attached as Exhibit A, which shall be served on opposing counsel who will
18 then have 5 business days to object to the disclosure in writing, and if, having so
19 objected, the Undertaking is not withdrawn, opposing will shall have 5 additional
20 days to seek a protective order from the Court to prevent such disclosure if necessary:

- 21 (i) in-house attorneys (including support staff as reasonably necessary) of
22 each party who are responsible for and/or working directly in the
23 prosecution or defense of this action;
- 24 (ii) up to five corporate representatives of each side (officers, directors, or
25 employees of the parties who have been charged by their respective
26 corporations with the responsibility in making business decisions dealing
27 directly with the litigation of this action);
- 28 (iii) outside experts and outside consultants retained in this action;

- 1 (iv) a deponent or other witness who authored, received, saw, or was or is in
 2 a position within the company that would have permitted him or her to
 3 have access to, a document or thing marked "CONFIDENTIAL" or who
 4 is otherwise familiar with the Confidential Information;
 5 (v) representatives of the parties' respective insurers who have agreed to
 6 provide coverage with respect to the defense of claims in this action;
 7 (vi) paralegals, stenographic, clerical employees, and translators associated
 8 with the individual enumerated in (d)(i) - (vi) above, but only as part of a
 9 disclosure to said individuals in accordance with this stipulation and
 10 order; and,
 11 (vii) such other individuals as the parties may stipulate.

12 By identifying individuals pursuant to the procedures described above in §2, the parties
 13 do not otherwise waive any attorney work product or other privilege. Furthermore, the
 14 parties' in-house counsel and Dr. Norman Zadeh are exempt from the notice procedures
 15 required in paragraph 2. Parties are considered to have already received notice regarding
 16 in-house counsel and Dr. Zadeh and they may review "confidential" documents
 17 immediately.

18 3. Any of the parties may designate (or may have already designated)
 19 especially sensitive Confidential Information as being produced for ATTORNEYS
 20 EYES ONLY. This designation shall be made as sparingly as possible. Where the
 21 marking or designation of documents, testimony, pleadings, or things is required
 22 under paragraph 1 above, a legend bearing the words "ATTORNEYS EYES ONLY"
 23 or its equivalent shall be used in addition to the legend bearing the word
 24 "CONFIDENTIAL." Confidential Information which is designated ATTORNEYS
 25 EYES ONLY may be disclosed to any of the individuals identified in paragraph 2
 26 above except as follows: (i) the number of in-house attorneys for each party under
 27 paragraph 2(d)(i) above shall be limited to two (2); (ii) the number of corporate or
 28 insurer representatives of each party under paragraphs 2(d)(ii) and (vi) above shall be

1 limited to none (0); (iii) the number of in-house technical personnel of each party
2 under paragraph 2(d)(iii) shall be limited to none.

3 4. Confidential Information shall be revealed by the receiving party only to
4 the persons permitted access to it pursuant to paragraphs 2-4 above, and shall not be
5 disclosed by the receiving party to persons other than those specified in paragraphs 2-
6 4. Confidential Information shall be used by the receiving party solely for the
7 purposes of litigation.

8 5. If a document containing Confidential Information is permitted to be
9 filed with the Court, it shall be filed with the Clerk of the Court in a sealed envelope
10 marked with the caption of the case, a schedule or summary of the contents of the
11 envelope, and the following notation:

12 Contains CONFIDENTIAL INFORMATION;

13 Filed Under Seal

14 or with such other designation as is ordered by the Court or as required by the Clerk
15 of the Court.

16 6. Should need arise during the trial or any hearing before the Court for any
17 party to cause Confidential Information to be disclosed, it may do so only after notice
18 of its intent to do so to the opposing party in sufficient time for appropriate
19 safeguards to be sought.

20 7. This Stipulation and Protective Order shall not prevent either party from
21 moving this Court for an order that Confidential Information is not, in fact,
22 confidential or that the designation of ATTORNEYS EYES ONLY is inappropriate,
23 provided that, 3 days prior to making such a motion, the moving party shall request,
24 in writing, that the designation be removed. On such a motion, the party asserting
25 confidentiality shall have the burden of proving that the Confidential Information in
26 question is protectable under Fed. R. Civ. P. 26(c) or on some other basis, or, as the
27 case may be, that the designation of ATTORNEYS EYES ONLY is necessary under
28 the circumstances. Such a motion regarding material produced being during phase I

1 discovery may be sought from the Court on an expedited basis. A party shall not be
2 obligated to challenge the propriety of a designation of Confidential Information at
3 the time such designation is made, and failure to do so shall not preclude subsequent
4 challenge.

5 8. This Stipulation and Protective Order is without prejudice to the right of
6 either party to move this Court for an Order further restricting or expanding
7 disclosure or use of any Confidential Information.

8 9. Nothing in this Stipulation and Protective Order shall preclude a party
9 from disclosing or using, in any manner or for any purpose, any information which
10 either was lawfully in its possession prior to being designated Confidential
11 Information in this litigation or, subject to the provisions of paragraph 1(f) above,
12 was obtained from a third party having the apparent right to disclose such
13 information.

14 10. Nothing in this Stipulation and Protective Order shall require production
15 of information which a party contends is protected from disclosure by the attorney-
16 client privilege or the work product immunity. If information subject to a claim of
17 attorney-client privilege or work product immunity is nevertheless inadvertently
18 produced, such production shall in no way prejudice or otherwise constitute a waiver
19 of, or estoppel as to, any claim of privilege or work product immunity for such
20 information. Nothing in this paragraph is intended to be at variance with existing law
21 regarding the inadvertent disclosure of privileged materials.

22 11. In the event of any accidental or inadvertent disclosure of Confidential
23 Information other than in a manner authorized by this Stipulation and Protective
24 Order, counsel for the party responsible for the disclosure shall immediately notify
25 opposing counsel of all of the pertinent facts and make every effort to further prevent
26 unauthorized disclosure including, retrieving all copies of the Confidential
27 Information from the recipient(s) thereof and securing the agreement of the recipients
28 not to further disseminate the Confidential Information in any form.

1 12. The recipient of any Confidential Information shall maintain such
2 information in a secure and safe place and exercise at least the same degree of care in
3 handling the Confidential Information as is exercised by the recipient with respect to
4 its own confidential information of a similar nature, but in no event less than due
5 care. Each recipient of any Confidential Information produced in this action hereby
6 agrees to be subject to the jurisdiction of this Court solely for the purposes of the
7 implementation and enforcement of this Stipulation and Protective Order.

8 13. This Stipulation and Protective Order is valid throughout the course of
9 this litigation (defined to include all proceedings herein, appeals and/or remands) and
10 shall survive the termination of this litigation.

11 //

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26 //

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28 //

14. The terms of this Stipulation and Protective Order may be applied to the documents, information and things received by a party from any person who is not a party to this litigation at the election of such person.

FOX & SPILLANE LLP

Perfect 10 Inc.

By: _____
Jay Spillane
Attorneys for Defendants CCBILL
LLC, and Cavecreek Wholesale
Internet Exchange

By: Jeffrey N. Mausner
Randall Lewis
Jeffrey N. Mausner
Attorneys for Plaintiff,
PERFECT 10, INC.

BUCHALTER NEMER FIELDS &
YOUNGER

IRELL & MANELLA

By: _____
Mitchell N. Reinis
Susan McDermott Mercer
Attorneys for Defendant Clarence
Coogan

By: _____
Bruce A. Wessel
Attorneys for Defendant Internet
Key Inc.

PITNEY HARDIN KIPP & SZUCH

COOLEY GODWARD LLP

By: _____
Dennis T. Kearney
Helen A. Nau
Attorneys for Defendant Internet
Key, Inc.

By: _____
Brandon Baum
Attorneys for Defendant Internet
Billing Company

ORDER

IT IS SO ORDERED.

DATED: 2/23/04

Stephen J. Hillman
STEPHEN J. HILLMAN
UNITED STATES MAGISTRATE JUDGE


1 12. The recipient of any Confidential Information shall maintain such
 2 information in a secure and safe place and exercise at least the same degree of care in
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 13 party to this litigation at the election of such person.

14
 15
 16
 17 Dated: December 23, 2003

Perfect 10 Inc.

18 By: 
 19 Randall Lewis
 20 Attorneys for Plaintiff,
 21 PERFECT 10, INC.

22 Dated: December __, 2003

FOX & SPILLANE LLP

23 By: _____
 24 Jay Spillane
 25 Attorneys for Defendants CCBILL
 26 LLC, and Cavecreek Wholesale
 27 Internet Exchange

28 Dated: December __, 2003

~~CHESTNUT & CAMBRONNE~~

By: _____

Withdrew as counsel
pursuant to Court
Order dated January 8,
2004.

~~Cort C. Holten
Attorneys for Defendant NetPass
Systems, Inc.~~

SCANNED

Dated: December __, 2003

IRELL & MANELLA

By: _____

Bruce A. Wessel
Attorneys for Defendant Internet
Key Inc.

Dated: December __, 2003

COOLEY GODWARD LLP

By: _____

Brandon Baum
Attorneys for Defendant Internet
Billing Company

Dated: December __, 2003

PITNEY HARDIN KIPP & SZUCH

By: _____

Dennis T. Kearney
Attorneys for Defendant Internet
Key, Inc.

Dated: December __, 2003

BUCHALTER NEMER FIELDS &
YOUNGER

By: _____

Mitchell N. Reinis
Attorneys for Defendant Clarence
Coogan

ORDER

IT IS SO ORDERED.

DATED: _____

UNITED STATES MAGISTRATE JUDGE

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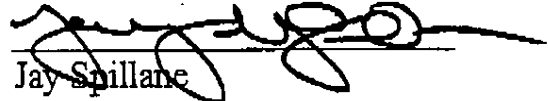
14
15
16
17 Dated: December __, 2003

Perfect 10 Inc.

18 By: _____
19 Randall Lewis
20 Attorneys for Plaintiff,
21 PERFECT 10, INC.

22 Dated: December __, 2003

FOX & SPILLANE LLP

23 By: 
24 Jay Spillane
25 Attorneys for Defendants CCBILL
26 LLC, and Cavecreek Wholesale
Internet Exchange

27 Dated: December __, 2003

CHESTNUT & CAMBRONNE

28 By: _____

Cort C. Holten
Attorneys for Defendant NetPass
Systems, Inc.

February 19, 2004
Dated: December __, 2003

IRELL & MANELLA

By: Bruce A. Wessel / s/
Bruce A. Wessel
Attorneys for Defendant Internet
Key Inc.

Dated: December __, 2003

COOLEY GODWARD LLP

By: _____
Brandon Baum
Attorneys for Defendant Internet
Billing Company

Dated: December __, 2003

PITNEY HARDIN KIPP & SZUCH

By: _____
Dennis T. Kearney
Attorneys for Defendant Internet
Key, Inc.

Dated: December __, 2003

BUCHALTER NEMER FIELDS &
YOUNGER

By: _____
Mitchell N. Reinis
Attorneys for Defendant Clarence
Coogan

ORDER

IT IS SO ORDERED.

DATED: _____

UNITED STATES MAGISTRATE JUDGE

SCANNED

Cort C. Holten
Attorneys for Defendant NetPass
Systems, Inc.


IRELL & MANELLA

Dated: December __, 2003

By: _____
Bruce A. Wessel
Attorneys for Defendant Internet
Key Inc.

COOLEY GODWARD LLP

Dated: December 22, 2003

By: 
Brandon Baum
Attorneys for Defendant Internet
Billing Company

PITNEY HARDIN KIPP & SZUCH

Dated: December __, 2003

By: _____
Dennis T. Kearney
Attorneys for Defendant Internet
Key, Inc.

BUCHALTER NEMER FIELDS &
YOUNGER

Dated: December __, 2003

By: _____
Mitchell N. Reinis
Attorneys for Defendant Clarence
Coogan

ORDER

IT IS SO ORDERED.

DATED: _____

UNITED STATES MAGISTRATE JUDGE

SCANNED

Cort C. Holten
Attorneys for Defendant NetPass
Systems, Inc.

IRELL & MANELLA

Dated: December __, 2003

By: _____
Bruce A. Wessel
Attorneys for Defendant Internet
Key Inc.


COOLEY GODWARD LLP

Dated: December __, 2003

By: _____
Brandon Baum
Attorneys for Defendant Internet
Billing Company

PITNEY HARDIN KIPP & SZUCH

Dated: December __, 2003

By: 
~~Dennis T. Kearney~~ *HELEN A. NAY*
Attorneys for Defendant Internet
Key, Inc.

BUCHALTER NEMER FIELDS &
YOUNGER

Dated: December __, 2003

By: _____
Mitchell N. Reinis
Attorneys for Defendant Clarence
Coogan

ORDER

IT IS SO ORDERED.

DATED: _____

UNITED STATES MAGISTRATE JUDGE

SCANNED

Cort C. Holten
Attorneys for Defendant NetPass
Systems, Inc.

IRELL & MANELLA

Dated: December __, 2003

By: _____
Bruce A. Wessel
Attorneys for Defendant Internet
Key Inc.

COOLEY GODWARD LLP

Dated: December __, 2003

By: _____
Brandon Baum
Attorneys for Defendant Internet
Billing Company

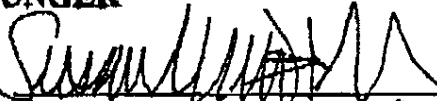
PITNEY HARDIN KIPP & SZUCH

Dated: December __, 2003

By: _____
Dennis T. Kearney
Attorneys for Defendant Internet
Key, Inc.

BUCHALTER NEMER FIELDS &
YOUNGER

Dated: ^{January 6, 2004}
~~December __, 2003~~

By: 
Mitchell N. Reims Susan McDermott
Attorneys for Defendant Clarence
Coogan

ORDER

IT IS SO ORDERED.

DATED: _____

UNITED STATES MAGISTRATE JUDGE

SCANNED

EXHIBIT A

I, _____, state that:

1. My residence is _____

My current employer is _____

My business address is _____

My business telephone is _____

My current occupation is _____

2. Over the past four years, I have been employed by the following companies, either directly or as a consultant:

3. A copy of my current curriculum vitae or equivalent is attached hereto.

2. I have received a copy of the Protective Order in this action. I carefully have read and understand the provisions of the Stipulation and Protective Order.

3. I will comply with all of the provisions of the Stipulation and Protective Order. I will hold in confidence, will not disclose to anyone not qualified under the Protective Order, and will use only for purposes set forth in the Stipulation and Protective Order any Confidential Information that is disclosed to me.

4. For outside experts and consultants: Promptly upon termination of this action, I will return all Confidential Information that came into my possession, and all documents or things that I have prepared relating thereto, to counsel for the party by whom I am employed or retained. I agree that I will not consult with any online billing or services company during the pendency of this litigation for any purpose related to the Confidential Information that I have reviewed.

5. I hereby submit to the jurisdiction of this Court in this action solely for the purpose of enforcement of this Stipulation and Protective Order.

(Signature)

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and am not a party to the within action; my business address is: 11601 Wilshire Boulevard, Suite 600 Los Angeles, CA 90025-1742.

On February 19, 2004, I served the foregoing document(s) described as follows:

STIPULATION AND [PROPOSED] PROTECTIVE ORDER

on the interested party(ies) in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

PLEASE SEE ATTACHED

MAIL: I placed such envelope with fully prepaid postage thereon in the United States mail at Los Angeles, California.

FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on **February 19, 2004**, at Los Angeles, California

BY: 
Mary Trinh

SERVICE LIST
Perfect 10, Inc. v. CCBill, LLC, et. al.
Case No. CV 02-7624 LGB (Shx)

SCANNED

Counsel for Defendant
CCBill/CWIE

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 Frank R. Mead, Esq.
 Tiffany & Bosco, P.A.
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 Phoenix, AZ 85016
 Fax No. (602) 255-0103

Counsel for Defendant
Internet Billing Company, LLC

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 3000 El Camino Real
 Palo Alto, CA 94306-2155
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Counsel for Defendant
Clarence Coogan

Susan McDermott Mercer, Esq.
 Buchalter, Nemer, Fields & Younger
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Co-Counsel for Defendants
CCBill and CWIE

Jay M. Spillane, Esq.
 Fox & Spillane, LLP
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 Los Angeles, CA 90067
 Fax No. (310) 229-9380

Counsel for Defendant
Internet Key, Inc.

Dennis T. Kearney, Esq.
 Jonathan S. Bristol, Esq.
 Pitney, Hardin, Kipp & Szuch, LLP
 Park Avenue at Morris Count
 PO Box 1945
 Morristown, NJ 07962-1945

Bruce A. Wessel, Esq.
 Irell & Manella
 1800 Avenue of the Stars, Suite 900
 Los Angeles, CA 90067
 Fax No. (310) 203-7199

Network Authentication System

Mr. Laurence E. Sullivan
 209 Bloomfield Avenue
 Bloomfield, NJ 07003